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REPORT OF COMMITTEE,

RALEIGH, *January 22nd*, 1866.

To the Speaker of the House of Commons
of the General Assembly of North-Carolina:

SIR:—The Committee appointed by the provisional Governor in pursuance of a resolution of the recent Convention "to prepare and report to the Legislature a system of laws upon the subject of freedmen, &c.;" herewith present their report, and request that through you, it may be laid before the General Assembly.

Respectfully,

B. F. MOORE,
W. S. MASON,
R. S. DONNELL. } *Committee.*

To the Honorable, the General Assembly
of the State of North-Carolina:

The undersigned, a Committee appointed by the late provisional Governor, in pursuance of a resolution passed at the recent session of the Convention directing that a

committee of three persons be appointed "to prepare and report to the Legislature at its next session, a system of laws upon the subject of freedmen, and to designate such laws, and parts of laws, now in force, as should be repealed in order to conform the statutes of the State to the ordinance of the Convention abolishing the institution of slavery," have considered the matters intrusted to them; and herewith submit, as their report, "A bill concerning Negroes, Indians and persons of color, or of mixed blood;" and also several other bills differing, somewhat in character, from that one.

The Committee, in presenting their report, deem it proper that they should explain the course they have pursued; and to some extent, the reasons by which they have been governed.

Prior to the emancipation of slaves there had existed, in the State, three classes of population, besides Indians, to-wit: the whites, the slaves, and the free negroes; and for many purposes, there existed a special legislation for each class. Upon the emancipation of the slaves, the laws specially respecting them, ceased to have any force; and that class fell under the laws respecting free negroes: the political and civil condition of all the colored population became that which had already been established for the free negro. It became the duty, therefore, of the Committee to look through the entire body of the laws of the State, for the purpose of ascertaining what part of them governed the free negro, as distinguished from the white man. In performing this duty your Committee have deemed it the more advisable course, (as this species of special legislation was scattered throughout the civil and criminal laws,) to advise the repeal of all laws that specially affected the colored race, and re-enact such as, in their opinion, ought to exist; and also to recommend other and original legislation, when it was deemed expedient. Believing that a

brief synopsis of the several sections of the first named bill, and also, of the other bills, would not be unacceptable, they proceed to furnish it:

The first section of the bill "concerning negroes," &c., defines who shall be deemed a negro or colored person, or person of mixed blood, within the generations designated.

The second declares that in all statutes and judicial proceedings, such a person shall be properly described by the term "person of color."

The third declares persons of color to be citizens of the State.

The fourth confers on them all the privileges of white persons in conducting their suits, and in the mode of trial by jury.

The fifth places the colored apprentice on the same footing with a white one; and leaves the law declaring in what cases they should be bound, as it now exists in the Revised Code.

By the sixth, certain marriages, deemed to be not void, but voidable, though celebrated in due form, between slaves or between slaves and free negroes, are declared valid.

By the seventh, certain past marriages between them, existing at certain fixed periods, by mere consent and without due celebration, are validated; and provision made for perpetuating the evidence thereof by being recorded.

By the eighth, inducements are held out to such as are thus married under section 7, to have their marriages recorded.

It has been held, that under our laws, the marriages of slaves by their own mere consent, and simply consented to by their masters, are void; and, as the Legislature is forbidden to legitimate persons born in bastardy, the provision for such legitimation, which was contained in an ordinance offered before, but rejected by the Convention, (because of the adoption of the resolution under which the Committee

are now reporting) must be again submitted to that body, or the freedmen now living will all be bastards, and incapable of inheriting from their fathers any estate which he may chance to die possessed of.

It is believed that a marriage merely voidable may be validated by the General Assembly; and that when thus confirmed, all the incidents of ratification follow; one of which is the legitimation of the issue previously born. But, it is more than doubted whether such result follows the enactment of a marriage under section 7.

By the ninth section, contracts between persons of color, and between them and whites, for live stock, are required to be in writing. The numerous thefts of such species of property, in which the whites and blacks associate together, require this provision; as thereby the thief will be the more certainly detected. The section also embraces other contracts of a certain value. And, one of its main objects is to protect the colored person from imposition by cunning, and the white man from the effects of corrupt evidence.

The tenth section makes void all marriages between whites and persons of color.

Section eleven allows persons of color to bear witness where their rights of person or property are concerned. In respect of this action the Committee will comment more at large hereafter.

Sections twelve and thirteen require no comment.

By section fourteen the criminal code affecting white persons, is extended to colored persons, in all things, unless otherwise expressly declared in the bill reported. The only exception in the bill, or in any law, which will exist after repealing such as are recommended to be repealed, will be found in section 13 of the bill reported, which punishes with death a person of color who may assault a white female with intent to ravish her.

The Committee observe that in some of the late slave-holding States, much legislation is employed to confer on persons of color the civil rights which belong to white men. In this State very little is necessary; indeed, none beyond a repeal of the laws, which, from time to time, have been introduced, making distinctions between whites and colored persons. And, it may be observed, that some of the provisions of this bill which seem to confer rights and privileges, were strictly unnecessary; because persons of color were entitled to them without any new enactment. But it was deemed better, at this time, to solemnly declare them in a bill drawn to define their civil status.

Many years since it was solemnly decided by the highest Court of the State, and indeed, it has been so regarded, that the term "freemen," (than which none used in the declaration of rights and the Constitution of the State, to describe a citizen, is of higher dignity,) included in its fullest extent, a free negro, whether free in 1776, when the Constitution was framed, or become so since by emancipation. He was, at the beginning of the late unhappy conflict of arms, and is now, included in the term "freeman," as used in that instrument.

This class of our population have never been debarred from owning any species of property, except by one enactment, that of 1861, which forbade them thereafter to own slaves. They have ever been protected from trial for crime, except through presentment by a grand jury, and trial by a petit jury, with all the rights of challenge accorded to white persons. They have ever been allowed trial in the same tribunals where, for like offences, the white man was prosecuted. The same common law which yet prevails so extensively in this State, and regulates, almost entirely, the duties of husband and wife, of parent and child, of guardian and ward, of master and servant, and of master and apprentice, exists alike for both classes. The same

power of making contracts, and the same remedies for enforcing them in courts open alike to both, are equally the rights of the one race and the other, without distinction.

In a word, the common law is the law of the State in all matters where it has not been superseded by statute; where it exists, colored and white persons are equally protected under its shield, and exposed to its punishments; and where it is changed by statute, the change operates on all.

By sections 15 and 16, wardens of the poor, for persons of color, may be appointed. This is left to the discretion of the appointing court, only because, in some counties of the State, persons of color are too few in number to require an additional Court of Wardens.

The remainder of the sections of the bill are appropriated to the repeal of "such laws and parts of laws now in force, as, in the opinion of the Committee should be repealed in order to conform the statutes of the State to the ordinances of the Convention abolishing the institution of slavery," and the new condition of things arising out of the same.

Secondly, The Committee have deemed it their duty, in view of the very great changes which have so suddenly taken place, to recommend the passage of certain laws equally applicable to both populations. It is conceded that the industry of the negro race has become greatly relaxed and demoralized, the natural consequence of which is an unsettled and roving disposition, a desire to avoid steady work, and a disposition to pick up a precarious existence by pretended hunting of wild game, though in most localities, it is too scarce to be worth the pursuit.

It is also vain for us to attempt to disguise the fact that the industry of the white man too, is greatly unnerved and demoralized, and like evil consequences are ready to follow. Indeed, they already exist. We conceive it to be among the first of legislative duties to check this demoralization.

and direct the energies of the entire population in appropriate channels of honest labor.

Among the most efficient means of accomplishing this object, they deem the protection of every man's property against unauthorized intrusions, trespasses and thefts of the idle and vicious.

In our present demoralized condition there is no species of live stock which escapes the roving robber; and every man is plundered, when the market is convenient, of whatever may be found on his lands, growing or severed, that is valuable for sale.

Wilful trespasses on lands have long been a grievance greatly complained of. The common law did not allow criminal prosecutions for this species of wrong; but the General Assembly have, from time to time, in many instances, departed from this rule in order to afford protection against the lawless idler and insolvent trespasser. In proportion as circumstances may increase the frequency of such wrongs, it will become the legislative power to follow them with appropriate remedies.

The Committee, therefore, report and recommend the passage of the following bills:

1. "A bill to punish persons pursuing horses and other live stock with intent to steal them."

2. "A bill to prevent wilful trespasses on lands and stealing any kind of property therefrom."

3. "A bill to punish vagrancy."

In regard to this bill, the Committee have deemed it advisable to recommend the repeal of the two provisions upon the same subject, and the passage of this bill in lieu of both said provisions.

These provisions are to be found in the Revised Code, chap. 34, sec. 45; chap. 107, sec. 60; the former was intended for white vagrants, and the latter for free negro vagrants.

The bill herewith reported, embraces both populations:

4. "A bill to punish seditious language, insurrections and rebellions in the State."

In regard to this bill, the substance of it has long existed in the State, under several provisions to be found in the Revised Code and elsewhere. The bill now offered is intended as a substitute for all provisions upon the same subject.

5. "A bill to secure to agricultural laborers their pay in kind."

The object of this bill is to encourage the field laborer, by securing to him the fruits of his toil. Every legitimate means should be employed to stimulate industry, and the enjoyment of its fruits has ever been found the strongest incentive to produce the desired effect.

6. "A bill to prevent enticing servants from fulfilling their contracts, or harboring them."

This bill is a just companion with the preceding one. While it is the duty of the law-giver to secure to the laborer the promised rewards of his labor and toil, it is equally just to require him to comply with his deliberate and lawful contracts; especially when his employer surrenders to him, in the outset, the use of valuable lands which may prove to be worthless to the owner, if the laborer be not held to his contract. The inculcation of a strict observance of contracts is equally the parent and offspring of virtuous industry. And that man is no less a vicious member of society, who persuades and encourages another to be faithless to his word, than he who wilfully violates it. Both should suffer the sharp reproof of the law.

7. "A bill more effectually to secure the maintenance of bastard children, and the payment of fines and costs on conviction in criminal cases."

The purpose of this bill is to relieve the County Treas-

uries; *first*, from the burden of supporting bastard children, which are likely to greatly increase in number, in the midst of a demoralized population.

It is naturally just that the father should support his offspring, whether born in or out of wedlock. No one, if able to work, ought to be allowed to cast his spurious progeny on the charity of the industrious poor, whose toil is stretched to its utmost extent in supporting the public charges and their own virtuous families.

Secondly, From the burden of maintaining, at heavy expense, the judicial tribunals of the land established for the preservation of the public peace against the turbulence and violence of those who, having been the principal instrument of its breaches, seek, when brought to justice, to evade by an idle life, the payment of the costs of suppressing their own disorders.

As yet, no steps have been taken by that authority, which claims exclusive jurisdiction, both civilly and criminally, over all matters that concern the freedmen, to encourage or enforce the marriage of such as, while slaves, were long living together willingly, as man and wife. By the laws of this State the husbands and wives, popularly so called, of a population of 300,000 human beings, are lewdly and laciviously cohabiting together, without any other link of connection than their own free will. They may part when they choose, and select new partners for a day or a month. Among the whites such cases are indictable. If, after the courts shall assume their criminal jurisdiction, the colored people shall still be allowed to continue in the practice of such unlawful connections, without reproof or punishment, they will be in a more demoralized condition, in respect to that relation, which among all civilized human beings, is deemed so sacred, than were free persons of color, or even slaves, before the late epoch of emancipation. The former were not allowed to cohab-

it without marriage, duly celebrated; and the latter were much restrained from such licentious co-habitation, by the care and prudence of their masters.

If the Freedmen's Bureau will neither turn over to the civil authorities for correction, this species of crime, nor take efficient means, itself, for its correction, it will be impossible to elevate the race by any legislative means yet practiced or devised. No race of mankind can be expected to become exalted in the scale of humanity, whose sexes, without any binding obligation, cohabit promiciously together. Among such a people, chastity can have no name or place; and the performance of parental duties, no encouragement or sanction.

It is much hoped that the Freedmen's Bureau will take the subject into serious consideration.

8. and lastly, "A bill to establish work-houses or houses of correction in the several counties of the State."

In the opinion of the Committee, this institution has been long since demanded, and now more than at any time heretofore. Though its cost, in the present embarrassed pecuniary condition of the country, may be somewhat burdensome, there is little doubt that, if managed with economy and care, it will soon prove a great relief to the honest industry of the country. The dread of involuntary labor is much more effectual to suppress misdemeanors and idleness than a few days of imprisonment, with a discharge of fines and costs under the insolvent debtor's law.

Without such a house the present jails will be unequal to contain those who will be committed to prison. Their proper enlargement for the reception of both species of population, and the different sexes of each population, will cost, at once, as much as a work-house and farm on a small scale, which may be enlarged as occasion may require.

The Committee have left it discretionary with the Justices of the Peace, whether they will establish such a

house; because, in some counties it may be little needed, and in others very greatly; and because, also, some counties are more able to establish them at once, than others are. If even one county shall establish such an institution, self defence will soon render it necessary for all the adjacent counties to follow the example; and a few years only, will be requisite to extend the institution over the State.

If this, or some similar policy should not be inaugurated, it is not difficult to foresee that this State may become, in the process of time, the land of immigration from all parts of the Union, of the demoralized freedman and the dissolute white man.

The Committee are aware that the great and radical changes occasioned by emancipation, in the fixed habits and custom of the people, cannot be truly estimated at once; and therefore, they forbear, as much as possible, to speculate by legislative anticipation, for such changes as may even probably become necessary in the course of time. They deem it the more prudent course to proceed now by new laws, only so far as the way appears to be clear. They prefer to let the common law apply its flexible rules for human conduct to the new state of things, rather than frame for it rigid, and perhaps misconceived legislation.

The General Assemby will perceive that we have omitted all such punishments as the involuntary hiring out of persons of color, and also, of whipping them, except in cases where white persons are thus punished.

Public whipping is a species of punishment which ought rarely to be inflicted on any one whom it is the purpose of the law to reclaim from crime. The culprit thus punished becomes utterly degraded in public esteem; and it would be wonderful if he did not become so in his own. A freeman thus degraded, loses all incentive to virtue; and

so far as his example can extend as a parent or othe wise, he inculcates all his vices in those around him.

It may be said, and with perfect truth, that there are comparatively few of the slaves lately freed, who are honest; but this vice now so prevalent among them, may be traced to other and more probable causes than any natural depravity peculiar to the negro race, which, by some physiologists, are declared to be naturally destitute of moral principles, in a greater degree than any other people yet known. The Committee have not regulated their code by this doctrine. And if it were true, there is but the greater necessity for correcting the natural obliguity by proper civil institutions wisely administered. That the race is not beyond the reach of a proper moral training, is evident from the many examples among them of sobriety, industry and honesty. If it owed its depravity to the vicious nature peculiar to the race, we ought to be able, by this time, to trace some steps of improvement in the mixture of its blood with that of other races of men.

The Committee have not discovered, nor has it been maintained, that the mixed blooded slave has been elevated in the moral virtues of the white race, as he advanced toward it in color. It may not be amiss to remark that the punishment by hiring, is rather of modern date. The first enactment to this effect was in 1831, and its constitutionality was seriously questioned by eminent lawyers, though settled by an able court.

Your honorable body will perceive also, that we recommend, that the Courts should be fully opened to the negro race, for protecting their persons and property, and all the rights of freemen, by being heard as witnesses, whenever these rights are in controversy.

The enactment recommended, allows their evidence in civil cases only where the rights of person, or property of persons of color would be precluded by the judgments or

decrees made in those cases. And in criminal cases, only where the violence, fraud, or injury charged to have been done by, or on them, is put directly in issue.

If the testimony is to be admitted at all, it ought to be extended to such cases. The effect of thus limiting it will not deny them any advantages, but on the contrary, will secure to them the most perfect protection that human evidence can afford. Beyond the accomplishment of this object we have not felt ourselves authorized to go. The result of allowing it to this extent will be, that when colored persons are parties, they may call to the witness stand the whole population of the land, not rendered incompetent by want of understanding, interest, or religious unbelief; while in cases where white persons alone are parties, white persons only will be competent witnesses.

The Committee will proceed to give some of the reasons which have induced them to recommend the reception of the evidence of negroes, as provided in section 11.

First. The present helpless and unprotected condition of the race demands it. Their condition of personal security is greatly changed. Prior to emancipation they were grouped on farms which they seldom left, and were overlooked by their masters or overseers, surrounded by families of white children.

They were not only watched by the whites to preserve the discipline necessary for servitude, and to prevent spoliations, but were cared for and protected as property. It was the slaveholder's interest to prevent, and, when committed, to punish any injuries done to the persons of their slaves. The interest of one slaveholder was the interest of all; so that their security was guaranteed by the common interest of the wealthiest and most powerful men in the country, and of course, of all their kindred and adherents, among whom, generally, were their poorer white neighbors. Thus the person of the slave (without reckoning the feelings

of humanity which have generally characterized the slaveholders of this State) became the subject of general protection by every class of white men; and any outrage on his person a general, cause for common vindication. With this shield of security, the white aggressor was checked in his violence; and if not, his detection was almost sure. These sources of personal security are all removed by emancipation, and, without the capacity to bear evidence, he stands in numerous cases utterly defenceless, except by opposing force to force against every species of outrage offered to himself or to his family; whether in his presence alone, or under the eye of other colored persons. If he should submit to the violence, and suffer the most grievous wrongs, there is no one who can be heard in his behalf; and he could expect, from his submission, nothing less than a repetition of his unredressed wrongs.

If he should oppose force to force, in the justest cause, whatever might be the result, his mouth and the mouths of all colored witnesses would be closed.

It is a truth not less obvious than established by all experience, that breaches of the peace always decrease in proportion to the facility and impartiality with which the violator is brought to justice. Citizens will not readily avenge themselves when the sword of the law is at hand to do it for them. But when the law is powerless, from whatever cause, the hand of private violence will be sure to come to the aid of self-defence. It is, therefore, clear that by protecting the person of the negro, we shall most certainly protect the person of the white man. If the former may be outraged in his own domicil, or in secret places, or along the highway in open day, with impunity, because he may be incompetent to testify to the wrong, he will turn from the door of the courthouse and seek his redress elsewhere, and in a way too that will likewise shut the mouth of him who may witness the act. Let no one suppose such a result im-

probable, if the great and just law giver of the Jews has himself set the example to an enslaved people.

Secondly. The admission of such evidence is necessary to secure the colored people in their rights of property.

While in slavery they had no property. What was set apart for their use belonged to their master, and was under his protection. In their new state they enter on the broad ground of citizenship, and become actors in all the departments of social life. They are allowed to trade with the white man in every article of property; to possess and cultivate lands, and, by all wise means, should be encouraged to habits of industry and a desire for honest acquisition.

The protection of a man's honest gains should ever be, after the protection of his person, the next great policy of a wise commonwealth. If the property which a negro shall own, his cattle, his money, may all be carried off, yea, his very house robbed of its furniture, and his person of his valuables by abandoned white men, and he shall be unable to bring the robbers to justice because the witnesses are colored, can the race feel any ardent disposition to labor for themselves? On the contrary, will they not feel doubly tempted by such want of security for their own property, to become depredators themselves especially, when they reflect that it is the white man's policy, which thus exposes them to licentious white men?

But, besides such glaring cases of public wrongs which would go unredressed by excluding their evidence, there are many of a more private nature, which depraved white men would perpetrate on them or procure to be done by their negro associates, as their instruments. Already the wicked white man and corrupt dependent negro have banded together in lawless thefts and frauds on industrious and peaceful citizens, both white and black; and the white associate, if negro evidence shall be excluded, will stand secure in his villainy behind his colored friend.

The calamity to public virtue and private rights would be incalculable, if those who were injured could not testify against the perpetrator of the crime. How shocked would every citizen of North-Carolina feel, if the Legislature should enact that no person assaulted and beaten, no one whose property was stolen, no one robbed, and no one ravished, should bear evidence of the crime? The exclusion of negro evidence places that race in just such a condition.

The committee are of opinion that the protection of person and property imperiously demands that the evidence of colored persons be admitted for that purpose, unless it should be excluded upon some ground of public policy still higher than such as favors its introduction. We have heard of but one that is plausible, and that is the *general falsity of such evidence.* No one pretends that it is *universally false.* It is urged, however, that, for the greater part, the evidence is not reliable, and, if universally believed, would produce far more wrong than right.

We are fully aware of a lamentable prevalence of this vice among the race. It is a natural offspring of their recent slavery and degradation.

Forced to an involuntary servitude, and required to do many things against their will, without any apparent profit to themselves, it was natural for them to disobey, if they found temporary ease in disobedience; and, to avoid correction, it was equally natural for them to endeavor to escape it, by falsehood. The vice of lying is, and ever has been, common to all people in slavery. Universal and unvarying truth is the highest and purest of all virtues; and if the most veracious persons only were competent witnesses, there would be many cases of the highest interest to the public without a single witness. Such a rule, however, has never marked the policy of justice in its investigation of facts.

It has been said that in a by-gone age, the rules of evidence with us were framed rather to exclude falsehood than

to admit truth; but even when these rules were administered in this spirit, all persons above seven years old, of sufficient understanding, not religiously insensible to the obligations of an oath, nor parties directly interested in the cause, were competent witnesses, unless they had been rendered infamous by conviction of some infamous crime, and judgment rendered thereon. These were English rules of the common law; and, so long as they prevailed, there was no nation on the earth whose inhabitants were excluded as witnesses from English courts. It mattered not what was their color, clime or religion. It is probable that at a very early period, after the introduction of African slavery in this State, the slave was forbidden to testify against a white person, and, it is probable also that the exclusion was soon extended to free persons of color. Slaves were not allowed to bear testimony against free persons of color until 1821.

The policy of excluding such testimony was founded on two considerations. First, The entire and absolute dependence of a slave on his master, and their social relation which rendered him unfit to bear witness for or against his master; or for or against any person to whom his master extended his favor or dislike. Besides this, the settled policy was to humble the slave and extinguish in him the pride of independence. This latter policy was extended in 1821, to the free negro, who, it was alleged, was greatly corrupting the slave by claiming superior privileges over him.

Emancipation having destroyed the distinction, all legislation concerning the colored race, must be the same.

The rules regulating the admissibility of the evidence of white persons, with a few exceptions, remain with us as they were a century since. But all at once the slave has disappeared, and upwards of 300,000 free persons of color are added to the population; these, with those before existing, constitute one-third of our entire people. Shall they be ad-

mitted to the witness stand? If it ever was, it is certainly not now, our policy to degrade them. On the contrary, our true policy is to elevate them in every way consistent with the safety and good government of the community. They must be educated out of their ignorance, and reformed out of their vicious habits.

If the admission of their evidence will not seriously endanger the administration of our laws, our manifest policy is to allow it, for nothing, in our opinion, tends more to inculcate a regard for truth than the almost unavoidable detection of falsehood, which occurs in judicial investigations before a jury, where the parties and witnesses are known, and their manner and conduct are scrutinized in the ordeal of trial.

If it be true that either the negro race, or the negro in our midst, civilized as he is beyond his native condition, be so mendacious that he cannot be safely heard in our court of justice, it seems to us that it is one of your highest duties to exclude them as witnesses in all cases whatsoever, as well those in which they are the sole parties, as those wherein one of the parties is a white man; and, above all things, not to allow persons of color to be convicted of capital felonies and deprived of life, on such unreliable evidence. If, to this suggestion, it may be truly replied, that he can be trusted when his own color is on trial, then it follows that he yet loves truth better than falsehood, unless he is seduced by his prejudices against the white man. Now, if this be so, this general characteristic of the race will soon develope itself, and thenceforth receive its just estimate at the hands of a white judge and a white jury. It is just to truth, however, for us to admit that neither during the wonderful and enduring conflict of arms, popularly announced, in their very midst, to be in behalf of their freedom, they did not exhibit, nor since its termination, have they ex-

hibited any decided marks of prejudice against their late masters.

It must be conceded by the opponents of such evidence, that if strong prejudices be sufficient to exclude the testimony of witnesses, all experience teaches that public prosecutors, near kindred, and personal enemies ought to be set aside as incompetent; and, if general corruption be also sufficient cause for exclusion, the man, whose character for truth on oath, is proved by all his acquaintances to be bad, ought no more to be heard in the ascertainment of facts, than a negro. Yet in all these cases the witness is heard, subject to so many "grains of allowance" on account of his established and admitted infirmity as a jury may judge to be the proper measure. It is settled by our highest judicial tribunal, that the testimony of a witness who commits a perjury, apparent to the jury in the very case in which he is examined, must, nevertheless be weighed by the jury for what it is worth.

By the laws of all civilized Europe, regulating the competency of witnesses, none are excluded by reason of character, race, color, or religion. We, ourselves, admit the semibarbarian of every continent and island; of every nation and tongue; of every religion, christian, heathan and pagan; and of every color, and race, unless he may fall under the ethnological varieties of the human species, denominated *Negroes* and *Indians*.

We are not prepared to admit, nor indeed do we believe that the colored man in North-Carolina is entitled to less credit on his *Christian* oath, than the colored Musselman, or heathen of Asia or Egypt, or of other parts of Africa, is when sworn on his *Koran* or other *symbols* of religious reverence. And when we consider the many thousands in the State, who are in full fellowship as christians, though we are quite sensible of the general demoralizrtion which per-

vades them as a class, we feel little dread for the consequences which may attend the admissibility of their evidence as reported.

In offering our reasons for allowing the evidence, we have conceded the general demoralization of the colored population: but we should do great injustice to many of them, if we should close this report, without excepting from the stigma hundreds, who, throughout their lives, have conducted themselves in a manner altogether becoming the best of citizens, and deserving the very highest praise. These are lights, indeed, to all others; and the consideration of respect in which they are held, ought to stimulate and encourage others of their race to practice the virtues of honesty and truth, which have served to distinguish the few.

The committee hitherto have argued that, if the proposed evidence be admitted, subject to the rules long established among us, and derived from our English ancestors, the administration of justice will have little to apprehend from the depravity or prejudice of the witness. In proof of this, they beg leave to invoke the attention of your honorable body in the recent experiments on those rules, made in England and in many of the United States. They will specially notice only those made in England within the last twenty-two years.

Up to the year 1845, like rules, for the most part, prevailed in this State and in England. In that year a great innovation was made by statute 6 & 7 Vict. removing many disqualifications, because of interest in the witness. So beneficial to the ascertainment of truth (contrary to all previous theory) did this experiment prove, that, in 1852, the Parliament (St. 15 & 16 Vict.) took another and a very long step in the same direction, and allowed each party not only to put the other, but even himself, on the witness

stand against his adversary. A proposition of this kind, made forty years ago in that country, would have been regarded as the vision of a disordered intellect; yet the daily practice under this law, has so illustrated its benefits that it is regarded as the most successful means towards perfecting the administration of justice in that country; a country which has no superior, if indeed, any equal on the globe, in ever exhibiting the most intelligent and careful solicitude to provide for the rights of person and property of every subject within its vast domains.

Respectfully submitted,

B. F. MOORE,
W. S. MASON,
R. S. DONNELL.